

REMARKS

Claims 1-11 remain pending in the present application. The undersigned attorney would like to thank Examiner Dunwoody for the courtesies extended to him during the personal interview on November 3, 204. At the interview, the Examiner's combination of Walters in view of Ferguson was discussed.

Rejection Under 35 U.S.C. §103

The Examiner has rejected Claims 1-11 under 35 U.S.C. §103(a) alleging them to be unpatentable over Walters (U.S. Patent No. 5,706,901) in view of Ferguson (U.S. Patent No. 4,551,115). The Examiner alleges that this combination would render Applicants' invention obvious to those skilled in the art.

Claim 1 defines a drive shaft assembly having a first shaft and a second shaft with a joint component. The joint component is both rotatable through a specify range of free motion rotation without torque transmission and is fixed from axial movement relative to one of the shafts.

The art relied on by the Examiner, specifically Walters and Ferguson, fails to disclose or suggest Applicants' invention. The Walters reference is directed towards a swivel hitch. The reference discloses and claims a swivel hitch construction easily adapted to connect with a pair of draft links or draw bar of a towing tractor. In passing, in one sentence in the disclosure, Walters mentions that it may utilized a telescoping shaft. The Walters reference does not disclose any specific reason for the telescoping shaft nor any purpose.

The Examiner then combines Walters with Ferguson. Ferguson discloses a drive shaft coupling which uses an elastomeric damper. The coupling is rotated

against the elastomeric damper which always provides a reactive force to maintain the coupling in a first position. There is no free motion in the Ferguson reference. This was pointed out to the Examiner during the interview. Accordingly, Applicant believes the claims to overcome the Examiner's rejection in view of Walters.

At the interview, the Examiner introduced references to Kurian (U.S. Patent No. 5,762,556) and Hansen et al. (U.S. Patent No. 5,807,179). The Kurian and Hansen et al. references disclose free motion clutches. The free motion clutches are described as being utilized in agricultural machinery to align a rear power takeoff with an implement. Both of the references are illustrated on fixed shafts.

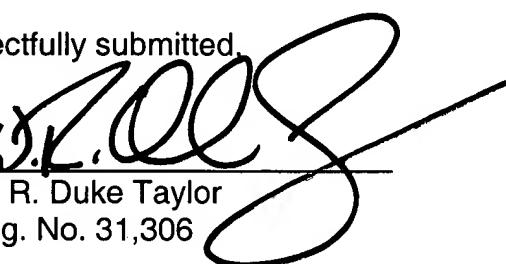
The combination of Walters with either Hansen et al. or Kurian is not suggested by these references. The Walters reference relates to a swivel hitch structure. There is no disclosure or suggestion in this reference to utilize any type of free motion clutch like those illustrated in Kurian or Hansen et al. Only through hindsight reconstruction, where the Examiner picks and chooses among isolated elements of both the references does this combination become feasible. One skilled in the art looking at the two references would realize that the Walters reference is drawn to a swivel hitch. Only through a detailed review of Walters, noticing that there was a brief mention of a telescoping shaft, would one skilled in the art realize that a telescoping shaft was disclosed since the invention is drawn to the swivel hitch.

The Examiner cannot pick and choose among isolated elements in each disclosure to deprecate Applicants' invention. The Examiner cannot utilize this hindsight reconstruction, using Applicants' invention as a template, to allegedly render the invention obvious. Accordingly, Applicants submit that the Examiner's combination

of Walters in view of Hansen et al. or Kurian is impermissible under Section 103. Accordingly, Applicants believe the claims to be patentably distinguishable over the art cited by the Examiner.

Accordingly, Applicants respectfully request the Examiner to pass the case to issue at his earliest possible convenience. Should the Examiner have any questions regarding the present application, he should not hesitate to contact the undersigned at (248) 641-1600.

Respectfully submitted,

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